

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>LAINE REVOCABLE TRUST,</p> <p>v.</p> <p>Respondent:</p> <p>LAKE COUNTY BOARD OF EQUALIZATION.</p>	<p>Docket No.: 57838</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on March 19, 2012, MaryKay Kelley and Lyle D. Hansen presiding. Mr. Eric Laine, Trustee, appeared on behalf of Petitioner. Respondent was represented by Lindsey Parlin, Esq. Petitioner is protesting the 2011 actual value of the subject property.

Subject property is described as follows:

Lake County Schedule No. 11999000-F

The subject property consists of a vacant land tract, of approximately 35.12 acres, known as Tract 8, Halfmoon Lakes. The terrain is relatively flat, has small rock formations, sagebrush and other native brush and native grass. Approximately 2.0 acres are classified as agricultural use and the remaining 33.12 acres are classified as vacant land.

Petitioner’s trustee, Mr. Eric Laine, is requesting an actual value of \$758.24 for the subject property for tax year 2011. Respondent assigned a value of \$135,835.00 for the subject property for tax year 2011. Mr. Laine is requesting re-classification of the 33.12 acres to agricultural use.

Mr. Laine presented no comparable sales to support his value estimate.

Mr. Laine testified that he has a business plan for a tree farm on the subject parcel. He testified that tree planting has occurred and some trees are at three feet in height and that buried irrigation piping and two wells of adjudicated water were installed in 2010. Mr. Laine testified that he continues to plant trees since the inception of his business plan and that he has receipts for

fertilizer purchase. He testified that he has dug holes for 1,000 new trees. Mr. Laine testified that 15.93 acres of the vacant land parcel are dedicated to keep grazing animals away from the tree crop; 4.39 acres are reserved for agricultural access and legal easements; 9.94 acres are reserved for future crop development with the balance of the 33.12 acres for other use. Mr. Laine is requesting that 23.61 acres be re-classified as agriculture.

Petitioner is requesting a 2011 actual value of \$758.24 for the subject property.

Respondent presented a value of \$135,835.00 for the subject property based on the market approach.

Respondent's appraiser, Mr. Howard Tritz, Lake County Assessor and a Colorado Registered Appraiser, presented two comparable sales ranging in sale price from \$100,000.00 to \$225,000.00 and in size of 39.6 acres for both parcels. No adjustments were made to the comparable sales.

The two comparable sales are located two-plus miles from the subject. Mr. Tritz concluded a value of \$4,100.00 per acre for the 33.12 acres of vacant land. Petitioner has already been assigned a value of \$43.00 for the two acres of agriculture-classified parcel.

Mr. Tritz testified that the subject has spectacular views of the mountains and is located across from a single-family residential subdivision. He testified that when he inspected the site he observed trees ranging in height from one to three feet high and no trees on the vacant land parcel. He observed irrigation piping on the two-acre parcel that was extending from the water wells. Mr. Tritz testified that improvement conditions involving the planting of trees had not significantly changed since his inspection of the parcel in 1999 and 2010. He testified that no profit document has been submitted to support Petitioner's position as a tree farm operation.

Respondent assigned an actual value of \$135,835.00 to the subject property for tax year 2011.

Respondent presented sufficient probative evidence and testimony to show that the subject property was correctly valued for tax year 2011.

The Assessor's Reference Library discusses tree farms:

Tree farms are typically agricultural operations which plant, cultivate and harvest trees for sale on a wholesale or retail basis. Inputs to the lands, e.g. fertilizer, pesticides or other cultivation activities, are indicators the land is being used as a farm as defined by 39-1-102(3.5), C.R.S. . . .

Tree farms should generally receive agricultural land designation if they plant and grow trees in the soil, cultivate and fertilize the trees, and harvest and sell the trees on a regular basis. The land must also be used for the primary purpose of obtaining a monetary profit as stated in 39-1- 102(1.6)(a)(I), C.R.S.

Assessor's Reference Library: Land Valuation Manual 5.29 (2006)

The Board concluded that the 33.12 acres of the subject property classified as vacant land does not fulfill the criteria for agricultural classification. No trees have been harvested or sold and no profit has been documented. The Board was not convinced about Petitioner's position that 15.93 acres dedicated for keeping grazing animals away from the tree crop meets the test for agricultural classification. Mr. Laine presented no comparable sales and no certified appraisal to support his value conclusion.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 27th day of March, 2012.

BOARD OF ASSESSMENT APPEALS

MaryKay Kelley

MaryKay Kelley

Lyle D. Hansen

Lyle D. Hansen

I hereby certify that this is a true
and correct copy of the decision of
the Board of Assessment Appeals.

Milla Crichton

Milla Crichton

